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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/074,513	02/12/2002	Kevin Packingham	1756	6715

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EXAMINER

GAUTHIER, GERALD

ART UNIT	PAPER NUMBER
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2614

SHORTENED STATUTORY PERIOD OF RESPONSE	MAIL DATE	DELIVERY MODE
3 MONTHS	01/08/2007	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

Office Action Summary

Application No.

10/074,513

Applicant(s)

PACKINGHAM ET AL.

Examiner

Gerald Gauthier

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 30 October 2006.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-14 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-5 and 8-14 is/are rejected.
- 7) ☐ Claim(s) 6 and 7 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____

DETAILED ACTION

Claim Rejections - 35 USC § 103

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

3. This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

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4. **Claim(s) 1-5 and 8-14** are rejected under 35 U.S.C. 103(a) as being unpatentable over Fortman et al. (US 5,987,100) in view of Shimada et al. (US 6,789,263 B1).

Regarding **claim(s) 1**, Fortman discloses a method of multi-modal content delivery (FIG. 2 and column 1, lines 4-11), the method comprising:

establishing a session between a server and a client device (column 7, lines 32-40);

while in a state of the session, delivering content in a first presentation mode format, to the client device, the content being associated with the state (column 7, lines 60-64);

storing a state record associated with the client device, the state record defining the state of the session (column 7, lines 10-13);

receiving a mode-switching signal from the client device (column 7, lines 53-57).

continuing the session in the state by delivering the content in a second presentation mode format, to the client device, wherein the second presentation mode format is different from the first presentation mode format (column 7, line 65 to column 8, line 5).

Fortman fails to disclose in response to the mode-switching signal, continuing the session in the state by delivering the content in a second presentation mode format, to the client device.

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However, Shimada teaches in response to the mode-switching signal, continuing the session in the state by delivering the content in a second presentation mode format, to the client device (column 44 lines 49-52).

Therefore, it would have been obvious to one of the ordinary skill in the art at the time the invention was made to modify the invention of Fortman using the teaching of voice and data conferencing as taught by Shimada.

This modification of the invention enables the system to continue the session in the state by delivering the content in a second presentation mode format, to the client device so that the user would have the advantage of seeing image data.

Regarding **claim(s) 2**, Fortman discloses a method, wherein the first presentation mode format is a voice-based format (column 7, lines 5-19).

Regarding **claim(s) 3**, Fortman discloses a method, wherein the second presentation mode format is a screen-based format (column 8, lines 63-67).

Regarding **claim(s) 4**, Fortman discloses a method, wherein the first presentation mode format is a screen-based format (column 8, lines 63-67).

Regarding **claim(s) 5**, Fortman discloses a method, wherein the second presentation mode format is a voice-based format (column 7, lines 5-19).

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Regarding **claim(s) 8**, Fortman discloses a method, wherein the state record identifies the state of the session by identifying a navigation point, the navigation point resource available from the server (column 8, lines 1-5).

Regarding **claim(s) 9**, Fortman discloses a method, wherein the navigation point is defined by identifying a specific a uniform resource identifier (column 7, lines 5-19).

Regarding **claim(s) 10**, Fortman discloses a method, wherein the state record includes a cache of content associated with the state, and wherein, continuing the session in the state further comprises transmitting the cache of content to the client device (column 7, lines 53-64).

Regarding **claim(s) 11**, Fortman discloses a method, further comprising: the client device transmitting the mode-switching signal over an air interface (column 8, lines 62-67).

Regarding **claim(s) 12**, Fortman discloses a method, wherein the mode-switching signal includes a service request, the service request identifying the client device and the second presentation mode format (column 7, lines 5-19).

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Regarding **claim(s) 13**, Fortman discloses a method, further comprising: in response to the service request, determining whether the client device is authorized to receive content formatted for the second presentation mode format (column 7, lines 52-64).

Regarding **claim(s) 14**, Fortman discloses a method, further comprising: in response to the service request, locating the state record associated with the client device (column 7, lines 52-64).

Allowable Subject Matter

5. **Claim(s) 6 and 7** are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Response to Arguments


6. Applicant's arguments with respect to **claim(s) 1-14** have been considered but are moot in view of the new ground(s) of rejection.

Conclusion

7. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Gerald Gauthier whose telephone number is (571) 272-7539. The examiner can normally be reached on 8:00 AM to 4:30 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Fan Tsang can be reached on (571) 272-7547. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.


Gerald Gauthier
Primary Examiner
Art Unit 2614

GG
December 28, 2006